United Nations A/66/255

General Assembly

Distr.: General
3 August 2011

Original: English

Sixty-sixth session
Items 13 and 69 (b) of the provisional agenda*

Integrated and coordinated implementation of and follow-up to the outcomes of the major United Nations conferences and summits in the economic, social and related fields

Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Report of the Special Rapporteur on the human right to safe drinking water and sanitation

Report of the Secretary-General

Summary

The present report is submitted to the General Assembly by Catarina de Albuquerque, Special Rapporteur on the human right to safe drinking water and sanitation, pursuant to General Assembly resolution 64/292, and in accordance with Human Rights Council resolutions 15/9 and 16/2. It reviews the major issues surrounding the resources available for the realization of the rights to water and sanitation. Section II of the report offers a brief review of the status of resources for the sectors. It then considers several principal sources of financing within the sectors and offers suggestions on how these can be augmented and improved through alignment with human rights principles, and recaps the tremendous benefits of investing in the rights to water and sanitation. Section III considers the related challenge of targeting resources effectively. It offers concrete examples of how stakeholders can better utilize limited resources by keeping human rights principles in mind. Finally, section IV addresses additional challenges to adequate financing, such as institutional fragmentation and lack of transparency.

* A/66/150.

11-44364 (E) 220811

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I. Introduction

1. The present report is submitted to the General Assembly by the Special Rapporteur on the human right to safe drinking water and sanitation, Catarina de Albuquerque, in accordance with Human Rights Council resolution 15/9, by which the Council requested the Special Rapporteur (then an independent expert) to report annually to the General Assembly, and in pursuance of General Assembly resolution 64/292, in which the Assembly requested the Special Rapporteur, in her report to the Assembly at its sixty-sixth session, to address the principal challenges related to the realization of the human right to safe and clean drinking water and sanitation and their impact on the achievement of the Millennium Development Goals. Pursuant to her mandate, as renewed by the Human Rights Council in resolution 16/2, the Special Rapporteur, is also working on identifying challenges and obstacles to the full realization of the human right to safe drinking water and sanitation.

2. The Special Rapporteur has addressed specific challenges to the realization of the human right to safe drinking water and sanitation in other reports, such as lack of political will and the need for national plans of action (e.g. A/HRC/18/33). Lack of resources is, however, consistently invoked by different stakeholders and is deserving of special attention. Thus, she has chosen to focus on this topic for in the present report.

3. The report tackles the issue of resources for the realization of the human right to safe drinking water and sanitation, querying whether the resources available are enough to realize that right and whether they are being spent appropriately. Overall, the conclusion is that, while additional resources could and should be devoted to the sectors, much more can be done with existing funds through better targeted interventions aligned with human rights obligations. Greater transparency and improved coordination will contribute to better overall knowledge of the resources that are being directed to the sectors and how they are being utilized, thus supporting improved policy design and implementation.

4. The Special Rapporteur underlines the inescapable truth that the realization of human rights, including civil and political rights, costs money. A functioning judicial system, a police force which respects human rights, social policies which protect the most disadvantaged populations and construction of infrastructure are necessary to support a society built on respect for human rights, and have monetary costs. These costs are generally shared by a combination of State support and the payments of individuals. For instance, education and legal aid is often supported by taxes and health care through insurance programmes and taxes.

5. Investments in water and sanitation do not occur in a vacuum. Macroeconomic policies greatly influence State decision-making when it comes to determining how and where resources are spent. Policies that prioritize economic growth in its own right without addressing the economic and social needs of the population can threaten the enjoyment of human rights.[1] For instance, certain economic theories disregard the relevance of income distribution and advocate minimizing public spending based on the assumption that resources can be more efficiently spent by

[1] Radhika Balakrishnan, Diane Elson and Raj Patel, *Rethinking Macro Economic Strategies from a Human Rights Perspective* (Carnegie Council, February 2009), pp. 10 and 11. Available from http://www.cwgl.rutgers.edu/globalcenter/publications/whymes2.pdf.

the private sector.[2] However, a narrow focus on economic growth, without simultaneous attention on whether outcomes are equitable and on building a strong regulatory framework, raises important human rights concerns. Economic growth can play a central role in poverty reduction, the achievement of the Millennium Development Goals and, ultimately, the realization of human rights, but only if the most vulnerable sectors of society are able to participate.

6. The availability of resources for water and sanitation is also closely related to how money is lent and borrowed globally. States required to devote large portions of gross domestic product to service external debt may be restricted in their ability to determine their national budget and resource allocation for essential public services, including water and sanitation. Furthermore, the continued use of conditionalities in these financing arrangements can also distort State priorities and have a deleterious effect on human rights, as further discussed below.[3]

7. Economic policy must be guided by human rights and serve as a tool for their realization. States and international policymakers have a responsibility to consider their macroeconomic policy choices in the light of their human rights obligations. Economic policy should be scrutinized for compliance with human rights standards and such principles as progressive realization, non-retrogression, non-discrimination, transparency, participation and accountability. It is not within the scope of the present report to comment in detail on economic policy, but it is crucial to understand from the outset that financing access to safe drinking water and sanitation for all takes place within, and is impacted by, this larger context.

8. Bearing the larger context in mind, the present report demonstrates how a deeper commitment on the part of States and international donors to incorporate human rights principles into sector financing can aid States in mobilizing, spending and tracking resources. To prepare the report, the Special Rapporteur met with experts in human rights law, water, sanitation, macroeconomics and development in Lisbon in May 2011,[4] and continued to consult bilaterally with a number of experts. The perspectives and expertise they offered have been extremely helpful and the Special Rapporteur is thankful to all those who shared their views.

II. Inadequate funding for water and sanitation

9. The most recent estimates reveal that nearly one billion people lack access to an improved source of drinking water, and 2.6 billion still do not have access to improved sanitation.[5] The Millennium Development Goal target on sanitation is woefully off track and the number of people with no access is on the rise.[6] Even if the 2015 target were met, over 1.7 billion people would still lack access to improved

[2] Ibid.

[3] See also the report of the independent expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights (A/65/260).

[4] The meeting, on macroeconomic policy and the rights to water and sanitation, was organized in conjunction with the Center for Women's Global Leadership, Rutgers University.

[5] World Health Organization (WHO) and United Nations Children's Fund (UNICEF), Joint Monitoring Programme for Water Supply and Sanitation, *Progress on Sanitation and Drinking-Water: 2010 Update*, pp. 6 and 7. Available from www.wssinfo.org/documents-links/documents/.

[6] Ibid., p. 8.

sanitation.[6] The target for water is on track, but progress remains shaky. If achieved, at least 672 million people throughout the world will continue to lack access to improved water sources[7] and the number of people without access to safe water would undoubtedly be much higher since current data do not include measurements of water quality or affordability. Invariably, it is the most marginalized and excluded populations which will continue to be without access; sadly, the progress made towards achieving the Millennium Development Goals has not resulted in significant changes for people living in poverty.

10. In her report to the General Assembly at its sixty-fifth session (A/65/254), the Special Rapporteur explained how the normative content of the rights to water and sanitation can support the achievement of target 7.C of the Millennium Development Goals in a more comprehensive, accountable, participatory, non-discriminatory and sustainable manner. She now stresses that, while the Goals provide concrete development benchmarks, a human rights perspective highlights legally binding obligations and envisions universal, equitable and affordable access.

11. Irrespective of whether the focus is on development goals or human rights, the reality is that, at current funding levels and with current spending patterns, there are not enough resources available to attain either. One study estimates that achieving universal access to water and sanitation by 2015 implies an annual cost of US$ 16.58 billion but notes that this figure is probably an underestimate.[8] Concerning the Millennium Development Goal targets, funding for the water and sanitation sector must increase significantly, perhaps even double, if target 7.C is to be met by 2015.[9] By various estimates, the global cost of meeting the 2015 targets ranges between US$ 6.7 billion to US$ 75 billion annually, depending on factors such as baseline years, population growth and distribution, costs of technology, and whether cost estimates include the costs of new infrastructure, operation and maintenance and/or of building institutional capacity to sustain access.[10] At the national level, it has been estimated that, at a minimum, States should aim to spend 1 per cent of gross domestic product on water and sanitation.[11]

12. Contrasting with these substantial costs, the reality is that neither governments nor donors are committing sufficient resources to water and sanitation services. In 2008, the total international aid commitment to water and sanitation was just US$ 7.4 billion, or 5 per cent of all reported international aid.[12] Compared to spending on health and education, the proportion of international aid devoted to water and sanitation has dwindled over the past decade,[13] even though investments

[7] Ibid., p. 9.

[8] WHO and United Nations Development Programme (UNDP), "Economic and health effects of increasing the coverage of low-cost household drinking water supply and sanitation interventions" (WHO/SDE/WSH/07/05), pp. 21 and 22. Available from www.who.int/water_sanitation_health/economic/mdg10_offtrack.pdf.

[9] World Water Council, Third World Water Forum and Global Water Partnership, *Financing Water for All: Report of the World Panel on Financing Water Infrastructure* (March 2003), foreword. Available from www.financingwaterforall.org/index.php?id=1098.

[10] *UN-Water Global Annual Assessment of Sanitation and Drinking-water 2010: Targeting Resources for Better Results* (Geneva, World Health Organization, March 2010), p. 20. Available from www.who.int/water_sanitation_health/glaas/en/.

[11] UNDP, *Human Development Report 2006: Beyond Scarcity — Power, Poverty and the Global Water Crisis* (New York, 2006), p. 9.

[12] *UN-Water Global Annual Assessment*, p. 14.

[13] Ibid., p. 15.

in water and sanitation have a crucial impact in achieving other Millennium Development Goals, such as reduction of maternal mortality, achievement of universal primary education, empowerment of women and reduction of child mortality. Water and sanitation must figure more prominently in the priorities of Governments, both domestically and internationally, if all of the Goals are to be achieved and the rights to water and sanitation fully realized.

A. Incorporating human rights into traditional financing mechanisms

13. Although human rights law recognizes that States often have limited means, they are nonetheless required to work progressively to fully realize the rights to water and sanitation. The principle of progressive realization acknowledges that fully implementing economic, social and cultural rights is a long-term process, but affirms that States must progress over time, taking deliberate, concrete and targeted steps towards meeting the obligations recognized in the International Covenant on Economic, Social and Cultural Rights,[14] in order to move as expeditiously and effectively as possible towards fulfilment of those rights.[15] Running corollary to this principle is the prohibition of deliberately retrogressive measures.[15] States which renege on their basic obligations and reduce protection for a particular right bear the burden of proof to show that such measures are justified by reference to the totality of the rights provided for in the Covenant and in the context of full use of the maximum available resources.[15]

14. With a view to achieving progressively full realization of the rights to water and sanitation, each State is obliged to take steps to the maximum of its available resources[16] and cannot justify neglect of its human rights obligations based on assertions that it lacks the necessary funds or human resources.[17] Rather, there is a positive obligation for States to mobilize resources from those living within their borders and, where necessary, the international community.[18] Regardless of the funding sources that a State chooses, it must always ensure that there are corresponding mechanisms in place to support transparency, public participation and accountability.

15. It is not enough, however, for States to mobilize a large amount of resources for the water and sanitation sector without also ensuring that they are spent in ways that have the greatest possible impact on achieving universal realization. States should look to maximize results by, inter alia, developing sector-wide strategies and strong regulatory frameworks; working to increase awareness and demand for water and sanitation services; and investing in low-cost, high-efficiency technologies, where appropriate. Emerging strategies in the area of quantitative assessment make it possible to monitor whether the maximum of available resources are directed towards the realization of economic, social and cultural rights, including the rights

[14] General Comment No. 3 (1990) of the Committee on Economic, Social and Cultural Rights, para. 2. *Official Records of the Economic and Social Council, 1991, Supplement No. 3* (E/1991/23), annex III.

[15] Ibid., para. 9

[16] Article 2 of the International Covenant on Economic, Social and Cultural Rights (General Assembly resolution 2200 A (XXI), annex).

[17] General Comment No. 3 (1990) of the Committee on Economic, Social and Cultural Rights, para. 10.

[18] Balakrishnan, Elson and Patel, *Rethinking Macro Economic Strategies*, p. 8.

to water and sanitation.[19] Human rights law also requires States to actively promote non-discrimination.[20] States must prioritize their spending to target groups and communities with the greatest need.

16. While some aspects of the rights to water and sanitation are subject to progressive realization, human rights law also contemplates obligations of immediate effect that should dictate State priorities and decision-making in the short term.[21] In the context of the rights to water and sanitation, this involves, inter alia, prioritizing access to minimum essential levels of water and sanitation on a non-discriminatory basis; adopting and implementing a national water and sanitation strategy; and beginning to monitor the extent of the realization of the rights to water and sanitation.[22]

B. Sources of financing

17. Beyond investing in efficient technology and prioritizing basic needs, States should also look to diversify and optimize sources of funding for the water and sanitation sectors, including tariffs and user contributions, national and local tax revenue, and international assistance, whether in the form of grants or loans. Many projects to extend access will involve a combination of different sources of financing.

18. Incorporating human rights principles, such as accountability, participation and non-discrimination, into financing mechanisms will enhance their impact by ensuring that resources are distributed so as to focus on improving access to water and sanitation services for those who currently have no or inadequate access.

1. Household and user contributions

19. The Special Rapporteur stresses that a human rights framework does not require that water and sanitation services be provided free of charge. Obtaining water at no cost may actually harm low-income households by depriving service providers of the revenue needed to expand and maintain the service, and risks being unsustainable.[23] Further, resistance to payment does not always rest with the most disadvantaged and low-income communities which are not connected to the formal network and thus pay considerably more per litre for water from informal vendors. For the people in those communities, paying for formal service provision is often a

[19] See, for example, E. Felner, "A new frontier in economic and social rights advocacy? Turning quantitative data into a tool for human rights accountability", *International Journal on Human Rights*, No. 9 (December 2008); and S. Fukuda-Parr, T. Lawson-Remer and S. Randolph, "Measuring the progressive realization of human rights obligations: an index of economic and social rights fulfilment" *Economic Rights Working Paper Series*, No. 8 (Storrs, Connecticut, University of Connecticut Human Rights Institute, August 2008).

[20] International Covenant on Economic, Social and Cultural Rights, art. 2, para. 2.

[21] General Comment No. 3 (1990) of the Committee on Economic, Social and Cultural Rights, para. 10.

[22] General Comment No. 15 (2002) of the Committee, para. 37.

[23] World Water Council, *Enhancing Access to Finance for Local Governments: Financing Water for Agriculture*, Task Force on Financing Water for All, Report No. 1 (Marseilles, France, March 2006), p. 6. Available from www.pseau.org/outils/ouvrages/wwc_task_force_financing_water_for_all.pdf (accessed 9 August 2011).

welcome opportunity to have a more regular service and better quality water and sanitation.[24]

20. There are several means by which households may contribute to improving access to water and sanitation. In cases of networked supply, discussions concerning tariffs are particularly important, as most water (and sewerage) utilities cover at least part of their costs through tariffs (i.e. direct payments by households for access to water and sanitation services).[25] Increasingly, utilities are ring-fenced, so that the funds raised from tariffs can only be used on the operation, maintenance and improvement or extension of access to water and sanitation services and cannot be utilized for other government purposes. Some governments also demand that the cost recovery principle be followed, at a minimum insofar as operation and maintenance costs, meaning that all costs related to operating and maintaining water (and in some cases, sanitation) services are paid for through tariffs. User fees however normally do not generate the level of revenue needed to invest in new projects or expand existing infrastructure.[25] Where there is a cost recovery principle in place, it is crucial that the tariffs be structured such that those who cannot afford to pay cost price for the delivery of water (and sanitation) services are assisted through supplementary systems that ensure affordability. Therefore there is an inconsistency in that utilities are expected to deliver services on a commercial basis but at the same time provide an affordable public good.

21. Another form of household contribution in accessing formal water and sewerage services is the connection charges. These costs consist of payments to the utility for the cost of connection to the network (e.g. the physical costs of bringing the pipes to the household) and the cost of improvements within the household to enable such a connection (e.g. in-house pipes, water storage tanks etc.). These costs are often a significant barrier for those living in extreme poverty, with recent research suggesting that in Africa the average connection cost paid to utilities was US$ 185.50, and in Asia, US$ 168.90. Putting these numbers in context, connecting to the water system in, for example, Ghana requires about one year's income.[26] Some countries have decided to reduce the barriers to accessing water and sanitation services by removing this charge for all or some households, or by incorporating some or all of the cost of extending the service into standard service charges. Arguably, expanding the customer base of the water utility has the potential to bring in more revenue than insisting on high connection charges.[27]

22. Household contributions for water and sanitation services in rural areas and in informal settlements can differ quite substantially from household contributions for standard piped water and sewerage provision. In these cases, user costs can range from the construction of communal or individual household provision (a well, communal or household toilet), through the storage of water (buckets, jerry cans, tanks), treatment of water (boiling, chlorine, filters etc.), cleaning, maintenance, emptying of latrines or septic tanks, to the disposal of excreta.

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[24] UNDP, *Human Development Report 2006: Beyond Scarcity — Power, Poverty and the Global Water Crisis* (New York, 2006), pp. 52 and 53.

[25] Organization for Economic Cooperation and Development, *Pricing Water Resources and Water and Sanitation Services* (Paris, OECD Publishing, 2010), p. 70.

[26] R. W. A. Franceys, "Charging to enter the water shop? The costs of urban water connections for the poor", *Water Science and Technology: Water Supply*, vol. 5, No. 6 (London, International Water Association (IWA) Publishing, 2005), pp. 209-216, 213 and 215.

[27] Ibid., p. 216.

23. In any event, the human rights framework obliges States to ensure, first, that the cost of accessing water and sanitation remains affordable and appropriately reflects the needs of marginalized and vulnerable groups and, second, that there is a safety net in place for those who cannot afford to pay or who can only afford to pay a minimal fee. In this context, affordable means that the costs should not significantly detract from a household's ability to pay other essential costs, such as food, housing or health care.[28]

24. As discussed below, various forms of government support, for instance, direct or cross subsidization, can have a positive impact on affordability.[29] Sound, transparent indicators for measuring and monitoring affordability help to further promote accountability in the sector.

> While consideration is given throughout the present report to financing for both water and sanitation, it is worth assessing the reasons why financing for sanitation differs from that for water.
>
> Although the benefits from investing in sanitation are considerably more pronounced than investing only in water, requirements for the water sector are easier to finance than requirements for the sanitation sector, with 37 per cent of aid funding[a] and an average of a mere 20 per cent of government spending on the sectors going to sanitation.[b]
>
> Access to water is a need felt by every woman, child and man, regardless of economic status, and there is no substitute, so people will pay high prices even for poor quality water if there is no alternative. For these reasons, water is generally higher on both the political agenda of governments and list of budget priorities of households, schools, workplaces and clinics than is sanitation, where the economic and health benefits of owning and using a latrine are not fully understood.
>
> Further, sanitation can be a taboo subject, with many cultures finding it difficult to discuss individual needs, particularly those of women. This means that there is not enough information on who does not have adequate access to sanitation and why, making planning and budgeting difficult, if not impossible.
>
> A male head of household, who may be the decision maker in budget prioritization, has often a wider range of options for accessing safe sanitation, whether at the workplace or through cultural norms which make it more acceptable for men to urinate, if not defecate, in the open. This may mean that women's needs are not represented in household budgetary decisions, and their need for convenient and safe sanitation, not only for personal use but also to assist in care of children, the sick and the elderly, is not met.

[28] General Comment No. 15 (2002) of the Committee on Economic, Social and Cultural Rights.

[29] Organization for Economic Cooperation and Development, *Pricing Water Resources and Water and Sanitation Services*, p. 77.

Financing for sanitation is required for all aspects of adequate sanitation, including the purchase or construction of a latrine or toilet, and removal or transport of waste matter (i.e. sewerage or a pit/septic tank emptying system) and its treatment, disposal and/or reuse. While many households may plan effectively for the construction of a toilet or latrine, planning and budgeting for appropriate transport, treatment, disposal and reuse is more complex and requires, particularly in urban areas, a more holistic approach. Wastewater treatment efforts by governments and donors have focused on networked sewerage systems which are often not available to the poorest households, leaving treatment of faecal sludge from latrines and septic tanks unaddressed. More must be done to find appropriate systems of excreta disposal in dense urban environments and rural areas not connected to the sewer system.[c]

For access to sanitation to be sustainable, investments in areas such as awareness-raising are usually necessary to stimulate demand. Providing sanitation infrastructure and fittings where demand is low risks non-use of the facility.[d]

[a] *UN-Water Global Annual Assessment of Sanitation and Drinking-water 2010: Targeting Resources for Better Results* (Geneva, World Health Organization, March 2010), p. 28.

[b] Ibid., p. 29.

[c] Maggie Black and Ben Fawcett, *The Last Taboo: Opening the Door on the Global Sanitation Crisis* (London and Stirling, Virginia, Earthscan Publications Ltd., 2008), pp. 212-216.

[d] See Carolien van der Voorden and Andy Peal, *Public Funding for Sanitation: The Many Faces of Sanitation Subsidies* (Geneva, Water Supply and Sanitation Collaborative Council, 2009); and Sophie Trémolet, Pete Kolsky and Eddy Perez, *Financing On-site Sanitation for the Poor: A Six Country Comparative Review and Analysis* (Washington, D.C., World Bank Water and Sanitation Programme, January 2010).

2. Taxes and government funding

25. While tariffs and user fees can support the provision of water and sanitation services, they rarely cover all associated costs, in particular expansion into new or under-served areas. This holds true for both developed and developing countries. For instance, in Japan, government subsidies account for 7 per cent of investment in these sectors, while in Portugal, 31 per cent of financing for the water and sanitation sectors is provided through financing from the national and municipal budgets, rather than from tariffs (http://insaar.inag.pt/index.php?id=31).[30]

26. Government support is for several reasons therefore necessary to ensure financing. First, it is often the primary source of funding for capital-intensive infrastructure projects, such as building wastewater treatment facilities.[31] Indeed, in cases in which expanding access involves working in unserved and impoverished

[30] Organization for Economic Cooperation and Development, *Pricing Water Resources and Water and Sanitation Services*, p. 72.

[31] World Water Council, Third World Water Forum and Global Water Partnership, *Financing Water for All*.

areas, such as slums or other informal settlements, where initial costs are high and short-term returns on investment are low, States may be the only actors willing and able to deliver on a major scale.

27. Second, government funding in the form of subsidies may be necessary to improve the affordability of services in low-income households. One issue with major human rights implications is whether government subsidy programmes should be universal or targeted in nature.[32] Targeted subsidies aimed at reaching only those in need reflect the reality that budgetary limitations restrict the resources that States can devote to any given sector.[33] Those who are able to contribute on their own, meanwhile, should be expected to do so. Accordingly, States may undertake measures such as means testing to identify those eligible for support.

28. Ensuring that targeted subsidies reach the intended beneficiaries can, however, be complicated and expensive. It is especially important to ensure that targeted subsidies are not a mask for favouritism of certain groups based on political connections, or subject to capture by the elite, as this could reinforce disparities among groups or regions. In this regard, it is especially important that the targeting process and eligibility criteria be fair, reasonable, objective and transparent.[34] Where identifying the persons in need is difficult, a universal system of subsidies may be appropriate in order to guarantee that those most in need of assistance actually benefit. With no system of means testing, universal systems can also be cheaper to administer. Essentially, States must have a system in place to ensure that households requiring assistance in accessing water and sanitation obtain such assistance, taking into account the needs of present and future generations as well as the efficient use of resources.

29. Where individuals or households manage their own localized services, it may be necessary to provide grants or subsidies to ensure sustained access to water and sanitation. In some cases, subsidies are available for the construction of water points or latrines, but seldom for their operation and maintenance. Very little support is provided by Governments to assist households in managing the safe disposal of excreta. Lack of attention to sustainability runs the risk of retrogression and, potentially, violations of human rights law. Approaches such as community-led total sanitation have provided valuable lessons, especially in terms of allocating funding towards capacity-building for the community rather than direct subsidies for latrine construction to ensure that latrines will be both maintained and used effectively

3. International aid

30. Where household contributions and government spending are insufficient to realize the rights to water and sanitation, international aid frequently contributes to

[32] In her forthcoming report to the Human Rights Council on good practices (to be issued as A/HRC/18/33/Add.1), the Special Rapporteur describes common types of subsidies used by States to support the affordability of water and sanitation services.

[33] Thandika Mkandawire, "Targeting and universalism in poverty reduction", Social Policy and Development Programme, paper No. 23 (United Nations Research Institute for Social Development, December 2005).

[34] Report of the independent expert on the question of human rights and extreme poverty (A/HRC/11/9), para. 39.

financing.[35] In order to employ the maximum available resources in compliance with the principle of progressive realization, countries have an obligation to turn to international support when necessary.[36] In turn, countries in a position to assist have an obligation to provide support in a manner consistent with human rights principles.[37] This obligation of international cooperation applies to States parties to relevant human rights treaties in general and does not pertain to any particular State (E/CN.4/2006/WG.23/2, para. 50).

31. While there has been a trend towards greater domestic financing over the past decade, international aid remains the primary source of funding for the water and sanitation sector in many developing countries and for some countries in transition.[38] Meanwhile, the share of international aid going to water and sanitation has decreased over the past decade[39] and deserves higher priority in funding given the significant benefits brought by enhanced access (see below).

32. In the current economic climate, States relying heavily on international aid to support the realization of the rights to water and sanitation should push for the prioritization of funding for water and sanitation within existing aid allocations, while also adopting measures to sustain progress towards realization of those rights even without significant increases in funding.

33. This process begins with strong sectoral planning, including the articulation of both a uniform, sector-wide policy and specific targets. Evidence shows that without a clear national policy framework, effective and efficient service delivery is particularly difficult to achieve.[40] Moreover, when international donors consider which sectors to prioritize they regularly cite the existence of strong sectoral plans as a crucial factor influencing their decision-making.[41] Sectoral planning, meanwhile, should begin with a comprehensive assessment of available resources and the current status of the realization of the rights to water and sanitation, both in terms of overall access as well as affordability, acceptability and quality.[42]

34. If developing countries are obliged to take steps to ensure that international aid allocations for the water and sanitation sectors are sustainable and support progressive realization, international donors have a corresponding obligation to facilitate this process. International aid should adhere to the principles articulated in the Paris Declaration on Aid Effectiveness and the Accra Agenda for Action, ensuring that aid agreements are consistent with international human rights law and

[35] World Water Council, Third World Water Forum and Global Water Partnership, *Financing Water for All*, p. 2.

[36] International Covenant on Economic, Social and Cultural Rights, art. 2, para. 1, and General Comment No. 3 (1990) of the Committee on Economic, Social and Cultural Rights, para. 13.

[37] Charter of the United Nations, Arts. 55 and 56; International Covenant on Economic, Social and Cultural Rights, art. 11; General Comment No. 3 (1990) of the Committee on Economic, Social and Cultural Rights, paras. 13 and 14.

[38] *UN-Water Global Annual Assessment*, p. 46.

[39] Ibid., p. 15.

[40] Ibid., p. 38.

[41] Ibid., p. 22.

[42] For more information on national planning from a human rights perspective, see the report submitted by the Special Rapporteur to the Human Rights Council at its eighteenth session (A/HRC/18/33).

aligning aid priorities with the national policy frameworks of their development partners.[43]

35. In addition, money for water and sanitation is mobilized through loans and grants from international financial institutions and donors. These actors must work to eliminate inappropriate conditionalities attached to these financing agreements.[44] When money for development hinges on the enactment of particular macroeconomic policies, it can lead to cuts in public expenditures that could otherwise support the realization of the rights to water and sanitation.[45] Privatization of government assets, including providers of water and sanitation services, may also feature in conditionalities. While private sector participation is not prohibited under human rights law, without the simultaneous implementation of specific measures to regulate service provision and to maintain affordable access for all, there is significant risk that such participation could reduce incentives to expand and improve access in under-served areas while contributing to lower accountability and higher household costs.

4. Private sector and non-governmental support

36. Private sector financing mainly comes into play to cover gaps in service resulting from a lack of government support. Water vendors, for instance, play a significant, albeit frequently informal, role in unserved communities. In the case of sanitation, private actors are involved in the construction, management or maintenance of individual or public latrines as well as in selling soap and other cleaning products. More generally, the private sector may be involved in bridging financing gaps, offsetting some of the costs associated with the provision of water and sanitation services. Financing by the formal private sector, however, is generally provided on the understanding that such funds will be recouped, which can be a disincentive to delivering services to low-income settlements. Similarly, non-governmental organizations can play an important role, but their contribution in terms of overall financing remains minimal. The Special Rapporteur has addressed in detail the role of the private sector in supporting the realization of the rights to water and sanitation (see A/HRC/15/31), reiterating that human rights law is neutral with respect to economic models and that States are the primary duty bearers and, as such, are responsible for the effective contracting and regulation of private actors.

C. Benefits of investing in water and sanitation

37. In discussing the costs of investing in water and sanitation it is easy to lose sight of the benefits. Indeed, the economic costs of not spending more on water and sanitation are potentially much higher. In developed nations, advances in life expectancy and child mortality accompanied economic growth only after governments began making substantial investments in water supply and, more importantly, in sanitation.[46]

[43] Paris Declaration, para. 16.

[44] Accra Agenda (A/63/539, annex), para. 18.

[45] See report of the independent expert on the effects of foreign debt and other related international financial obligations of States (A/65/260), sect. B.

[46] UNDP, *Human Development Report 2006*, pp. 28-31.

38. The economic benefits of such improvements are staggering. By some estimates, the combined cost-benefit ratio for meeting both the water and sanitation Millennium Development Goal targets is 8 to 1.[47]

39. Universal access to water and sanitation combined could produce benefits of US$ 170 billion in countries non-members of the Organization for Economic Cooperation and Development.[47] These benefits are particularly felt in improved health: for instance, through averted cases of diarrhoea and savings in the treatment of illnesses caused by lack of access to water and sanitation.[48] Indeed, the total global disease burden in terms of disability-adjusted life years could be reduced by at least 10 per cent through investment in improvements to water and sanitation services.[49] The benefits of a household connection also have considerable positive impacts on reducing child mortality; one study carried out in Argentina found that increased household connections reduced child mortality in the poorest municipalities by 24 per cent.[50] The economic benefits of improved access to water and sanitation include increased productivity of adults and school attendance of children, both of which may be affected by chronic illness that stems from poor hygiene.[51]

40. Not all benefits can be moretized. Intangible benefits, such as time saved and dignity gained, warrant careful consideration for their impact on human well-being. The particularly positive impact for women and girls of investing in water and sanitation is crucial for realizing human rights obligations related to gender equality. Environmental benefits are also difficult to put a figure on, but may be enormous, given that improving water and sanitation services helps combat environmental degradation.

III. Targeting resources effectively

A. Human rights and targeting

41. Successfully mobilizing the resources needed to ensure universal access does not by itself guarantee success in fully realizing the rights to water and sanitation. Human rights principles offer three basic considerations which should guide States and international donors when determining how to allocate resources for water and sanitation. First, resources should initially be directed towards meeting obligations of immediate effect.[52] States can then build on that foundation to more fully realize the rights and move to higher levels of service. Second, States and donors must vigorously promote non-discrimination in their water and sanitation programmes and policies, looking to eliminate disparities in access based on, inter alia, race, colour, ethnic origin, religion, gender, economic status or citizenship. Finally, the

[47] Ibid., p. vi.

[48] Ibid., pp. 25-29.

[49] Annette Prüss-Üstün and others, *Safer Water, Better Health: Costs, Benefits and Sustainability of Interventions to Protect and Promote Health* (Geneva, World Health Organization, 2008), p. 7.

[50] R. W. A. Franceys, "Charging to enter the water shop?", p. 210.

[51] Hutton, Haller and Bartram, "Economic and health effects", p. 30.

[52] Draft guidelines for the realization of the right to safe drinking water and sanitation (see E/CN.4/Sub.2/2005/25), para. 2.3 (a).

principle of non-retrogression suggests that resources should contribute to the long-term sustainability of efforts towards universal realization. Quite often this means optimizing the use of existing resources and creating the necessary physical and regulatory infrastructure, as well as the human capacity needed to absorb additional resources in the future.

42. Recent assessments of resources available to the water and sanitation sectors show that they are not always being used to make gains towards realization of the rights. At both the international and national level, the majority of resources are benefiting the relatively well off rather than low-income communities which lack even basic access.[53] Moreover, while States and international donors have made headway in terms of expanding coverage, corresponding investments in operation and maintenance, capacity-building and awareness-raising, all of which support the sustainability of progress towards realizing the rights, are not a priority. In short, money is being spent in the wrong places. The subsections below highlight some of the key human rights arising out of current targeting within the sector and offer suggestions on how States can utilize resources more effectively.

B. Resources are not reaching the most vulnerable and marginalized

43. Meeting the obligations of immediate effect related to the rights to water and sanitation means guaranteeing basic access to all people while prioritizing the most vulnerable and marginalized individuals and communities. Under the current allocation of resources, priority is, however, generally not assigned to these groups, and there is no correlation between the amount of aid a particular country receives and the percentage of the population with adequate access to water and sanitation services.[54]

44. There are several reasons for this, including poor targeting and monitoring as a result of a lack of data at both the international and national level and because donors prioritize certain recipient countries for geopolitical reasons. At the international level, most donors do not know specifically whom their resources are reaching or how they are being targeted. Only slightly more than one half of them indicate that they measure the impact of their aid on the poorest sectors of the population,[55] many reporting that more than one half of their aid commitments to water and sanitation were to middle-income countries.[56] Indeed, 7 of the top 10 recipient countries of aid for water and sanitation report levels of access to improved water and sanitation of more than 90 per cent.[57] While aid to middle-income countries is important, it is crucial to ask whether these significant resources are reaching those who are most marginalized and disadvantaged or whether the funds go towards improving access for the relatively well off.

45. At the national level, few States report that they have developed or consistently apply criteria designed to ensure that sectoral resources are distributed equitably, particularly with respect to sanitation.[58] In India, for example,

[53] *UN-Water Global Annual Assessment*, p. 26.
[54] Ibid., p. 33.
[55] Ibid., p. 35.
[56] Ibid., p. 26.
[57] Ibid. p. 24.
[58] Ibid., p. 34.

166 million people gained access to improved sanitation between 1995 and 2008, yet access among the poorest quintile of the population improved by only around 3 per cent.[59]

46. States and international donors must prioritize in their water and sanitation strategies the obligations of immediate effect related to the rights. Donors should consider shifting their focus and resources to low-income countries in which levels of basic access remain low or, alternatively, developing stronger indicators to ensure that aid allocations to middle-income countries effectively target marginalized and disadvantaged communities. States, meanwhile, should develop national strategies for water and sanitation that emphasize the expansion of basic access, ensuring that the most marginalized and excluded are reached. This will also necessitate heightened financial support for monitoring at both the national and international level in order to track where their funds are going, as well as who benefits. Consultation with communities will also provide important information on which households are the most in need.

47. Current funding patterns disproportionately target networked urban areas. Large systems in urban areas (e.g. wastewater treatment facilities and sewerage pipelines etc.) receive vastly larger sums than basic services in rural areas and deprived urban areas (e.g. latrines, boreholes and hand pumps). Currently, 62 per cent of all of the sectoral aid goes to developing large systems, while only 16 per cent goes to basic systems.[60] This marks a near 10 per cent decline in funding basic services since 2003.

48. Where large-scale systems are planned, it is important to investigate who benefits: do these investments improve services for those who already enjoy access, or do they expand coverage to those who lack it? Piped water systems generally offer the best quality water at the lowest cost per capita owing to economies of scale. These systems must, however, also be made available to those households which are unserved or under-served in peri-urban and informal settlements. At present, the benefits from large-scale systems largely go to middle and upper-income households, reinforcing discrimination and exacerbating disparities between rich and poor.[61]

C. Choosing appropriate technologies

49. Progressive realization of the rights to water and sanitation does not automatically translate into higher costs. Different regions and contexts will require consideration of different technologies. Low-cost alternative technologies exist and further innovation is necessary to devise the most appropriate solutions for different contexts. Alternative technologies may be useful in providing access in an efficient manner, in the short to medium term, to those parts of the population living in remote rural areas or informal urban settlements. Some of these alternative technologies will be low cost, others might be higher cost but more sustainable and thus a better investment over time. These options should be carefully examined to

[59] UNICEF, "Equity fact sheet: MDG 7". Available from www.childinfo.org/files/MDG7.pdf.

[60] *UN-Water Global Annual Assessment*, p. 30.

[61] Sophie Trémolet, Pete Kolsky and Eddy Perez, *Financing On-site Sanitation for the Poor: A Six Country Comparative Review and Analysis* (Washington, D.C., World Bank Water and Sanitation Programme, January 2010).

determine which technology is most appropriate in a given context to fully realize the rights to water and sanitation. Investing in more expensive technologies does not necessarily lead to significant improvements in service.[62] Investing in low-cost, high-efficiency technologies, meanwhile, can dramatically reduce the amount of funding required to achieve the rights.[63]

50. The Special Rapporteur does not categorically reject any particular technology or suggest that expanding or improving access to water and sanitation should be done cheaply. Low-cost solutions for sanitation are often only temporary solutions, as reliable services that yield the long-term public health improvements normally come at a higher cost. States should determine which technology is appropriate based on the objective. If the goal is, for instance, to stabilize access to water in an informal settlement in the short term with the expectation that the community will be reached by more permanent services after a few years, low-cost options such as water kiosks served by utilities might be acceptable for a limited period.

D. Operation and maintenance

51. Directing more resources towards operation and maintenance is essential for the long-term sustainability of efforts to realize the rights to water and sanitation. Seventy-five per cent of the current annual resource needs to achieve the Millennium Development Goal targets for water and sanitation are for replacing and maintaining existing resources.[64] Unfortunately, despite progress in expanding coverage of water and sanitation services, there are clear signs of slippage, whereby communities that had received improved coverage fell into old patterns owing to poor maintenance.[65] In India, for instance, roughly 30 per cent of all communities that had gained improved access to water and sanitation have since lost some or all of that coverage.[66] Throughout Africa, it is estimated that, at any given moment, between 30 and 40 per cent of hand pumps are not functional.[67] Comparatively little international aid currently goes to covering such expenses.[68]

52. Investments that take the life-cycle cost of a water or sanitation improvement into account, or that are specifically directed towards the maintenance and operation of new and existing services, are essential to avoid this sort of retrogression. In

[62] Catarina Fonseca and others, "Life-cycle costs approach for water and sanitation services that last" (WASHCost, April 2011). Available from www.washcost.info/page/121 (log-in required).

[63] Guy Hutton and Jamie Bartram, "Regional and global costs of attaining the water supply and sanitation target (target 10) of the Millennium Development Goals, document WHO/HSE/AMR/08.01 (Geneva, World Health Organization, 2008). Available from http://www.who.int/water_sanitation_health/economic/mdg_global_costing.pdf.

[64] *UN-Water Global Annual Assessment*, p. 21.

[65] Fonseca and others, "Life cycle costs approach for water and sanitation services that last".

[66] Tom Schouten and others, "Taking a service delivery approach to monitoring water supply in low-income areas and implications for the Joint Monitoring Programme" (WASHCost, International Water and Sanitation Centre, 2011), sect. 1.1. Available from www.washcost.info/redir/.../Monitoring_sustainability_JMP_Berlin.pdf (log-in required).

[67] Ibid.

[68] *UN-Water Global Annual Assessment*, p. 32. Of 27 international donors, 8 were able to break down disbursements according to new services, increased service or treatment levels, and maintain or replace existing services, with the latter receiving only 13 per cent of aid.

terms of efficiency, it is also vastly more cost effective to invest in operation and maintenance than to rehabilitate a project after it has failed.[69]

E. Decentralization and capacity-building

53. The long-term success of the realization of the rights to water and sanitation also requires investment in governmental and human capacity, particularly at the local level. Decentralizing responsibility for managing water and sanitation services may boost their efficiency, and thus their sustainability, while also enhancing transparency, accountability and sensitivity to local needs.[70] These attributes of decentralization, however, are not automatic and the central Government maintains an important monitoring role in respect of human rights. In particular, the central Government must ensure that the most marginalized and disadvantaged groups are prioritized, and adopt the necessary measures (e.g. through tied or earmarked transfers to local authorities), so as to avoid funding being diverted to, or captured by, privileged segments of the population or other sectors.

54. Local governments rarely have the financial or technical capacity needed to address the accessibility, affordability and quality of services. Decentralized responsibility for providing water and sanitation services is not effective unless accompanied by support to local authorities as they learn to modify tariff and/or subsidy structures, plan new projects or mobilize additional resources. There are, however, reportedly few resources available to support capacity improvement.[71] Local governments are not routinely assigned resources sufficient to pay for all of their obligations and few are in a position to raise the money themselves. One recent study revealed that only around one third of State expenditure on water and sanitation goes to local government budgets.[72]

55. In order to ensure that they are fully complying with their obligation to progressively realize the rights to water and sanitation to the maximum of available resources, States choosing to decentralize control over water and sanitation must improve the efficiency and the efficacy of the process by devoting more resources to building capacity at the local level. Investments in capacity-building should focus primarily on two areas. First, States and international donors should devote more resources to supporting the ability of local governments to finance projects and expand services independently, while ensuring that resources are spent on those in greatest need. Not simply a question of giving local authorities more money, this may involve improving a local government's creditworthiness and its ability to attract its own external funding.[73]

56. Second, more funding must go towards improving the ability of local actors to absorb additional resources and to manage and deliver water and sanitation services.

[69] Fonseca and others, "Life cycle costs approach for water and sanitation services that last".

[70] Meera Mehta and Dinesh Mehta, *Financing Water and Sanitation at Local Levels* (London, WaterAid, January 2008), p. 45. Available from www.wateraid.org/documents/plugin_documents/financing_water_and_sanitation_at_local_levels.pdf.

[71] *UN-Water Global Annual Assessment*, p. 46.

[72] Mehta and Mehta, *Financing Water and Sanitation at Local Levels*, p. 46.

[73] World Water Council, *Enhancing Access to Finance for Local Governments: Financing Water for Agriculture*, p. 5. See also World Water Council, Third World Water Forum and Global Water Partnership, *Financing Water for All*, p. 15.

This means more practical training in how to operate and maintain water and sanitation improvements as well as administrative training in how to plan and budget new projects, collect fees and, in some cases, implement a subsidy programme.[74]

F. Regulation

57. As with capacity-building, progress towards realization of the rights to water and sanitation cannot be sustainable unless it occurs within the context of a strong regulatory framework.[75] National regulatory frameworks bolster the rights in a number of ways, such as setting clear targets and benchmarks for implementation; clarifying and harmonizing the responsibilities of various actors; setting minimum standards for quality, accessibility and affordability; and improving accountability by creating incentives for compliance.[76] Regulatory frameworks allow governments to prioritize unserved or under-served populations and can form the foundation of subsidy programmes and other safeguards for low-income households[77].

G. Awareness-raising and community outreach

58. The proliferation and sustainability of water and sanitation services depends not only on financing and constructing new facilities. States also have an obligation to educate communities about the hygienic use of water and sanitation services.[78] Devoting resources towards educating communities about the use and benefits of water and sanitation and consulting with them about their specific needs have a number of benefits, including, inter alia, ensuring that the services are used correctly and in a manner that supports their long-term sustainability; improving local ownership, transparency and accountability; ensuring that facilities are acceptable and reflect the cultural needs of the community; and improving overall public health. Despite these benefits, most countries still have limited capacity to

[74] Ibid.

[75] General Comment No. 15 (2002) of the Committee on Economic, Social and Cultural Rights, paras. 16, 47 and 48.

[76] World Water Council, Third World Water Forum and Global Water Partnership, *Financing Water for All*, p. 9. See also Centre on Housing Rights and Evictions (COHRE), American Association for the Advancement of Science (AAS), Swiss Agency for Development and Cooperation (SDC) and United Nations Human Settlements Programme (UN-Habitat), *Manual on the Right to Water and Sanitation* (2008), p. 37; available from www.cohre.org/sites/default/files/manual_on_the_right_to_water_and_sanitation_2008.pdf.

[77] Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ), Working Group on Regulation and Private Sector Participation in Sub-Saharan Africa, "*Sharing the Experience on Regulation in the Water Sector*" (April 2004). Available from www.gtz.de/de/dokumente/en-regulation-water-sector-africa.pdf (accessed 10 August 2011).

[78] General Comment No. 15 (2002) of the Committee on Economic, Social and Cultural Rights, para. 25; and COHRE, AAS, SDC and UN-Habitat, *Manual on the Right to Water and Sanitation*, p. 106.

devote further resources to this area.[79] International support also remains low, representing just 1 per cent of total aid to the sector in 2008.[80]

59. Outreach and awareness-raising also lay the groundwork for more effective expansion of services in the future. Devoting resources to these activities can often translate into greater demand and consequently result in greater political will. The need to create demand is especially relevant with respect to sanitation, where the benefits of improved services are not immediately obvious and the barriers to access can be high.[81] While the benefits of having access to water are more obvious, community outreach can still play an important role by spreading the word about subsidy programmes.[82] Fortunately, States are beginning to recognize the importance of allocating resources to community outreach and awareness-raising, as reflected, for instance, in the 2008 eThekwini Declaration commitment to increase the profile of sanitation and hygiene in national poverty reduction strategies.[83]

IV. Taking accurate stock of resources

60. It is not possible for States to make realistic assessments of where and how resources should be spent until they can accurately take stock of available resources. For a variety of reasons, including institutional fragmentation, a lack of transparency and the absence of mechanisms for monitoring individual contributions, it is currently difficult to accurately measure or track the amount of resources flowing into, or leaking out of, the sector. The present section briefly addresses these obstacles and offers some preliminary recommendations for improvement.

A. Problems of fragmentation

61. Fragmentation, that is, when resources and responsibilities are dispersed across a wide array of institutions and projects, each with their own rules and objectives, presents a central challenge to accurately measuring resources.[84] Because they span a number of sectors, ranging from public health to housing, water and sanitation are especially susceptible in this regard.[85]

62. Fragmentation often occurs horizontally between institutions when sectoral aid is managed by a variety of government ministries; for instance, one regulatory agency may be in charge of managing tariffs, while another monitors water quality.

[79] Stockholm International Water Institute (SIWI) and WHO, *Securing Sanitation: The Compelling Case to Address the Crisis* (Stockholm, 2005), p. 25. Available from www.who.int/water_sanitation_health/hygiene/securingsanitation.pdf.

[80] *UN-Water Global Annual Assessment*, p. 30.

[81] SIWI and WHO, *Securing Sanitation*, pp. 24 and 25.

[82] Sophie Trémolet, "World Water Day: a global inundation of funds is not enough", *The Guardian*, 22 March 2011. Available from www.guardian.co.uk/global-development/poverty-matters/2011/mar/22/world-water-day-sanitation-hygiene.

[83] Commitment No. 4 of the eThekwini Declaration, adopted by the Second African Conference on Sanitation and Hygiene, held in Durban, South Africa, from 18 to 21 February 2008. The text of the Declaration is available from www.africasan3.com/Images/eThekwiniAfricaSan.pdf.

[84] Mehta and Mehta, *Financing Water and Sanitation at Local Levels*, p. 59.

[85] UNDP, *Human Development Report 2006*, pp. 12 and 61.

In such cases, fragmentation is not always particularly inefficient, nor does it pose a serious threat to resource tracking. It becomes a problem, however, when multiple institutions are charged with similar responsibilities, or when one institution is responsible for articulating policy while another controls the purse strings.[86] Horizontal fragmentation also plagues donors at the international level.[87] When negotiating aid packages, for instance, individual donors often seek out personalized, extrabudgetary arrangements with Governments. These agreements may undermine a State's ability to account for all available resources when developing strategies for the sector.[88] The Special Rapporteur has expressed concern about the problems caused by horizontal fragmentation in the reports on her missions to Costa Rica and Egypt (A/HRC/12/24/Add.1 and Corr.1, para. 61, and A/HRC/15/31/Add.3 and Corr.1, para. 13) but discussions with many experts indicate that they are systemic in the water and sanitation sectors around the world.

63. Fragmentation can also be vertical, occurring not just between ministries, but also between national, subnational and local institutions. It often occurs in the context of decentralization when it is not coupled with a coherent national strategy or strong regulatory framework.[89] Financing channels can often become convoluted, leading to costly overlap and duplication,[90] and inconsistent standards across a country may be applied. The Special Rapporteur has commented on the overarching role of the central Government in ensuring the rights to water and sanitation in the context of decentralized arrangements for delivering these services, especially in her reports on her missions to Slovenia and the United States of America.[91]

64. In terms of measuring available resources, fragmentation presents an obstacle in several ways. For one, it is fairly common that a variety of institutions at the national or local level will have an entry point into the water and sanitation sector as part of their broader portfolio of responsibilities. Because in regard to budgeting each agency's contribution to the sector may be couched in terms of these larger responsibilities (e.g. public health initiatives, housing initiatives, environmental initiatives etc.), it is difficult for States to ascertain with precision the amount of resources they devote to water and sanitation.[92] Indeed, this diffusion of responsibility for water and sanitation is a major contributor to under-resourcing.[93] Furthermore, with resources located in several different accounts, it is difficult to monitor disbursements. For example, a Treasury single account, which consolidates

[86] Ibid.

[87] Ibid., pp. 70 and 71.

[88] Tom Slaymaker and Peter Newborne, "Implementation of water supply and sanitation programmes under PRSPs: synthesis of research findings from sub-Saharan Africa" (London, Overseas Development Institute, August 2004). Available from www.odi.org.uk/resources/details.asp?id=1663&title=water-supply-sanitation-prsps-synthesis-research-sub-saharan-africa.

[89] Mehta and Mehta, *Financing Water and Sanitation at Local Levels*, p. 59.

[90] Ibid., p. 28.

[91] A/HRC/18/33/Add.2, para. 48, calling on the Slovenian Government to intervene in municipalities failing to meet human rights obligations related to the Roma population, and A/HRC/33/Add.4 (forthcoming), calling for a mandatory federal standard on affordability in the United States of America.

[92] UNDP, *Human Development Report 2006*, p. 62.

[93] Ibid., p. 61.

all of the Government's cash and provides a trail of how the funds are spent and to whom,[94] offers one way of addressing this challenge.

65. Similarly, with multiple agencies and stakeholders focusing on the same sector, there is a high potential for overlap or wasteful duplication of services. For instance, a report on water point mapping in Malawi found that, as a result of lack of coordination, new water points were drilled next to existing boreholes while under-served areas continued to be neglected.[95] Accordingly, even if it were possible to determine how much a State is spending on water and sanitation at any given moment, it still might be difficult to determine the amount of resources that could be available if this waste were eliminated. Finally, different institutions, including international donors, may have different monitoring mechanisms for water and sanitation that consider various criteria and employ unique methodologies. This poses a serious problem for Governments hoping to implement a national water and sanitation strategy, as it leads to varying assessments of need and cost.[96]

66. The Special Rapporteur has emphasized the importance of national planning and a clear allocation of responsibilities to effectively realize the rights to water and sanitation (see A/HRC/18/33). States must therefore take their obligation to coordinate the work of actors at all levels seriously, and adopt comprehensive sector-wide policies for water and sanitation.[97]

B. Problems of transparency

67. Limited transparency within the water and sanitation sectors represents another key challenge to accurately taking stock of resources. Transparent budgeting for water and sanitation is essential to the sustainability and long-term success of improvements in the sector as it supports predictability, planning and the equitable distribution of resources and facilitates coordination among various agencies. Transparent budgeting can also serve as a platform for advocacy and accountability within vulnerable or unserved communities.[98]

68. A low level of transparency in budgeting is primarily the product of a lack of detail in budgeting. All too often, national budgets do not adequately account for how, where and by whom expenditures in the water and sanitation sector will be allocated. This problem is closely related to horizontal fragmentation, mentioned above, whereby water and sanitation are enveloped within multiple broader portfolios. Even where budgets are sufficiently detailed, access to information about the budget may still be limited. Specific water and sanitation initiatives, such as

[94] Ehtisham Ahmad, "Macro, fiscal and decentralization options to address marginality: reaching the extreme poor", paper prepared for the International Roundtable Conference on Marginality and Extreme Poverty: Towards Inclusive Development for and with the Poorest, held at the Centre for Development Research, University of Bonn, Germany, from 20 to 22 June 2011.

[95] Katharina Welle, "Learning for advocacy and good practice: WaterAid water point mapping: report of findings based on country visits to Malawi and Tanzania", WaterAid Report (London, Overseas Development Institute, December 2005). Available from www.odi.org.uk/resources/download/2952.pdf.

[96] WHO and UNICEF, Joint Monitoring Programme for Water Supply and Sanitation (www.wssinfo.org/country-collaborations/data-reconciliation).

[97] General Comment No. 15 (2002) of the Committee on Economic, Social and Cultural Rights, para. 51.

[98] UNDP, *Human Development Report 2006*, p. 63.

WASHCost (www.washcost.org) and the UN-Water Global Annual Assessment of Sanitation and Drinking Water, are taking important steps towards better monitoring of financing for the sectors and ensuring improved access to information for individuals and institutions. Human rights budget monitoring work has increased substantially in recent years, offering important tools to civil society and other stakeholders to demand access to information and track budget allocations with a view to holding Governments accountable for meeting their human rights obligations. This work involves disaggregating budgets by region and group and can have a profound impact on understanding whether funds are being allocated in line with human rights obligations. Public expenditure tracking is also important for assessing whether funds have actually been spent in line with the stated intention in the budget.

69. Even transparent budgeting can seldom account for the additional off-budget resources spent on water and sanitation by international donors and non-governmental organizations, which often wish to manage their projects independent of Governments. The resources expended on these projects are then almost never recorded in national budgets. In cases in which States rely on international contributions for the majority of their work in the water and sanitation sector, this means that Governments and communities have little knowledge of how much funding is actually available. In Malawi in 2006, for example, it is estimated that off-budget spending by non-governmental organizations was as much as three times the reported annual budget for water and sanitation.[99]

70. A lack of transparency may also impede accurate measurement of resources when States enter into contracts for service delivery with the private sector, particularly as bidding processes and contracts tend not to be made public.[100] The Special Rapporteur has emphasized the importance of transparency in private sector participation, particularly noting that the final contract and terms of reference must be available for public scrutiny and comment (A/HRC/15/31, para. 36). Private contractors have also sometimes intentionally underbid, artificially lowering costs in order to win contracts and then securing more favourable terms in bilateral renegotiations of contracts, a practice which the Special Rapporteur has highlighted as contrary to human rights requirements.

71. In all forms of financing, a lack of transparency can create incentives to siphon off resources, to make or accept bribes, or to engage in other unsavoury behaviour. These activities translate into added costs that are rarely reported, leaving Governments and individual agencies without a clear notion of how much money is actually available for water and sanitation.[101] For instance, Transparency

[99] African Ministers' Council on Water, *Getting Africa on Track to Meet the MDGs on Water and Sanitation: a Status Review of Sixteen African Countries* (December 2006), p. 47.

[100] Nila Ardhianie, "Water privatisation in Indonesia", in B. Balanyá and others (eds.), *Reclaiming Public Water: Achievements, Struggles and Visions from Around the World* (Amsterdam: Transnational Institute and Corporate Europe Observatory, 2005), p. 227; and Violeta Petrova, "At the frontiers of the rush for blue gold: water privatization and the human right to water, *Brooklyn Journal of International Law*, vol. 31, No. 2 (2006), pp. 577-614.

[101] World Water Council, Third World Water Forum and Global Water Partnership, *Financing Water for All*, p. 10.

International has estimated that corruption could increase the cost of meeting Millennium Development Goal target 7.C by 2015 by nearly US$ 50 billion.[102]

C. No measurement of individual contributions

72. As explained above, individual and household contributions play a significant role in the expansion and improvement of access to water and sanitation. The Human Development Report cited the case of China which has seen rapid progress in access to sanitation in rural areas, with 70 per cent of financing for these improvements coming from households.[103] The value of these contributions is, however, rarely factored into State assessments of costs.

73. It is exceedingly difficult to track these contributions and factor them into overall planning and budgeting. While tariffs for water and sanitation services will be relatively easy to monitor, the amount that households spend to build and maintain their access is more difficult, especially in cases of non-networked services. A human rights analysis requires consideration of these costs as they impact the affordability of water and sanitation. This information is essential for understanding which segments of the population require which kind of assistance in order to ensure their access to water and sanitation. The significant level of household contributions often required for gaining or maintaining access to wate and sanitation can function as a barrier for people living in poverty.

V. Conclusions and recommendations

74. **The present report has reviewed various challenges in financing access to water and s nitation for the realization of these human rights. Ensuring water and sanitation for all will require considerably more resources to extend sustainable access to the billions of people who still lack access. Beyond the need for additional resources, however, existing resources must also be better targeted to prioritize the most excluded and marginalized. More transparent budgets and better coordination will also assist in acquiring a more complete understanding of the resources available to tackle the water and sanitation crisis.**

75. **Based on the findings of the present report, the Special Rapporteur recommends that States:**

(a) **Prioritize funding, both in the national budget and for official development assistance, for water and sanitation with a particular focus on extending access to the unserved or under-served. This should include measures to identify the most marginalized, excluded and disadvantaged populations in terms of access to water and sanitation and specific initiatives to improve their situation;**

(b) **Ensure that household contributions, whether tariffs or other forms of contributions, remain affordable, including by establishing supplementary**

[102] *Global Corruption Report 2008: Corruption in the Water Sector* (New York, Cambridge University Press, 2008), p. 10. Available from www.transparency.org/publications/gcr/gcr_2008.
[103] UNDP, *Human Development Report 2006*, p. 128.

systems to support low-income households to gain and maintain access to water and sanitation;

(c) Increase the percentage of international aid allocated to water and sanitation and incorporate a human rights approach;

(d) Ensure that funding to the sectors is reported by all actors, including donors, private providers and non-governmental organizations, in order to obtain a complete picture of the resources allocated to the sectors and how it is being targeted;

(e) Prioritize spending on systems which are more likely to reach the most marginalized and disadvantaged, including ensuring that a piped water supply is also available to informal settlements, and consult with communities on the range of technologies available to ensure sustainable access;

(f) Integrate cost considerations of operation and maintenance into investments with a view to ensuring sustainability;

(g) Invest resources in building the capacity of local authorities in cases of decentralization;

(h) Invest resources in ensuring that regulation can be carried out effectively and with the necessary expertise;

(i) Invest resources in awareness-raising about the importance of water, sanitation and hygiene as a means of creating greater demand for these services;

(j) Ensure coordination, both horizontally and vertically, as well with other stakeholders such as donors, private service providers and non-governmental organizations;

(k) Ensure transparency of budgets and other funding for the sectors, including disaggregated information on which segments of the population have which level of access.

76. The Special Rapporteur encourages donor States, non-governmental organizations and international organizations to ensure that their policies, programmes and projects support efforts towards more coordinated and transparent funding of the water and sanitation sectors.